

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
CASE NO. 5:08-CV-00136-RLV-DSC**

SECURITIES AND EXCHANGE COMMISSION, )	
	)
Plaintiff, )	
	)
v. )	<b>ORDER</b>
	)
BILTMORE FINANCIAL GROUP, INC., and )	
J.V. HUFFMAN JR., )	
	)
Defendants. )	
	)

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**THIS MATTER** is before the Court on Receiver Pettit's Motion to Approve Private Sale of Real Property Free and Clear of All Liens, Claims, and Encumbrances, filed on September 28, 2012. (Doc. 91.) The time to respond has elapsed, and no objections have been filed.

A prior Order of this Court authorized Receiver to conduct a private sale of real property assets in accordance with specified parameters. (Doc. 60.) Pursuant to this authorization, Receiver seeks to sell various real-property interests owned by Defendants via private sale. Specifically, Receiver seeks the Court's approval to sell 2514 Claremont Road, Newton, North Carolina, "as is, where is," for \$60,000.00 pursuant to the contract attached to the instant Motion as Exhibit 1. (Doc. 91 at 7-10.)

Per 28 U.S.C. § 2001(b), "[n]o private sale shall be confirmed at a price less than two-thirds of the appraised value." Receiver considered three appraisals, with an average appraisal value of \$95,433.33. The current offer to purchase of \$60,000.00 is slightly less than two-thirds of this average appraised value (\$63,622.22). Therefore, the Court is statutorily barred from

finding that the best interests of the estate will be conserved via this private sale. Congress, through the plain text of section 2001(b), has exercised its judgment of what satisfies the best-interests standard in consideration of the appraisal values, and the proposed sale at issue does not meet this standard.

**IT IS, THEREFORE, ORDERED** that Receiver's Motion to Approve Private Sale (Doc. 91) be **DENIED**.

Signed: October 30, 2012



Richard L. Voorhees  
United States District Judge

